## IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA		)	
	Plaintiff,	) 8:09CR147 )	
	vs.	) ) DETENTION ORDER	
RA	AFAEL POSADAS,	<i>,</i> )	
	Defendant.	<b>'</b>	
A.	After conducting a detention hearing pursuant to 18 U.S.C. § 3142(f) of the Bail Reform Act on May 6, 2009, the Court orders the above-named defendant detained pursuant to 18 U.S.C. § 3142(e) and (i).		
B.	<ul> <li>Statement Of Reasons For The Detention         The Court orders the defendant's detention because it finds:         X             By a preponderance of the evidence that no condition or combination of conditions will reasonably assure the appearance of the defendant as required.             X             By clear and convincing evidence that no condition or combination of conditions will reasonably assure the safety of any other person or the community.     </li> </ul>		
C.	in violation of 21 U.S.C. § five years imprisonment imprisonment (b) The offense is a crime of (c) The offense involves a national content in the	nd includes the following: e offense charged: n with intent to distribute cocaine (Count I) 841(a)(1) carries a minimum sentence of nt and a maximum of forty years violence.	
	may affect wheth The defendant hat X The defendant hat X The defendant hat X The defendant is X The defendant of ties. Past conduct of to The defendant hat X The defendant hat X The defendant hat X The defendant hat	of the defendant including:  ppears to have a mental condition which her the defendant will appear.  as no family ties in the area.  as no steady employment.  as no substantial financial resources.  not a long time resident of the community.  loes not have any significant community.  the defendant:  as a history relating to drug abuse.  as a history relating to alcohol abuse.  as a significant prior criminal record.  has a prior record of failure to appear at s.	

## DETENTION ORDER - Page 2

	Release pending trial, sentence, appeal or completion of sentence.
	(c) Other Factors:
	X The defendant is an illegal alien and is subject to
	deportation.
	The defendant is a legal alien and will be subject to deportation if convicted.
	The Bureau of Immigration and Custom Enforcement
	(BICE) has placed a detainer with the U.S. Marshal.
	Òther:
V	(4) The nation and environment of the department of the defendant's
<u>X</u>	(4) The nature and seriousness of the danger posed by the defendant's release are as follows: The nature of the charges in the Indictment, the
	defendant's criminal; history, and the defendant's substance abuse history.
	dolondant o diminial, motory, and the delondant o desotation as decomposity.
Χ	(5) Rebuttable Presumptions
	In determining that the defendant should be detained, the Court also relied
	on the following rebuttable presumption(s) contained in 18 U.S.C. § 3142(e)
	which the Court finds the defendant has not rebutted:  X (a) That no condition or combination of conditions will reasonably
	assure the appearance of the defendant as required and the safety
	of any other person and the community because the Court finds that
	the crime involves:
	(1) A crime of violence; or
	(2) An offense for which the maximum penalty is life
	imprisonment or death; or
	<ul> <li>X (3) A controlled substance violation which has a maximum penalty of 10 years or more; or</li> </ul>
	(4) A felony after the defendant had been convicted of two
	or more prior offenses described in (1) through (3)
	above, and the defendant has a prior conviction for one
	of the crimes mentioned in (1) through (3) above which
	is less than five years old and which was committed
	while the defendant was on pretrial release.
	X (b) That no condition or combination of conditions will reasonably
	assure the appearance of the defendant as required and the safety of the community because the Court finds that there is probable
	cause to believe:
	X (1) That the defendant has committed a controlled
	substance violation which has a maximum penalty of
	10 years or more.
	(2) That the defendant has committed an offense under 18
	U.S.C. § 924(c) (uses or carries a firearm during and in
	relation to any crime of violence, including a crime of violence, which provides for an enhanced punishment if committed by the use of a deadly or dangerous
	weapon or device).

 D. Additional Directives
 Pursuant to 18 U.S.C. § 3142(i)(2)-(4), the Court directs that:

 The defendant be committed to the custody of the Attorney General for confinement in a corrections facility separate, to the extent practicable from persons awaiting or serving sentences or being held in custody pending

 appeal; and

## **DETENTION ORDER - Page 3**

- 2. The defendant be afforded reasonable opportunity for private consultation with counsel; and
- 3. That, on order of a court of the United States, or on request of an attorney for the government, the person in charge of the corrections facility in which the defendant is confined deliver the defendant to a United States Marshal for the purpose of an appearance in connection with a court proceeding.

DATED: May 6, 2009. BY THE COURT:

s/Thomas D. Thalken United States Magistrate Judge